



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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EXECUTIVE DIVISION
OFFICE OF FEDERAL INITIATIVES

June 2, 2025

BY ECF

The Honorable John P. Cronan
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

RE: *New York v. National Science Foundation*, SDNY No. 25 Civ. 4452 (JPC)

This Office represents the State of New York in the above-captioned matter. We write on behalf of all plaintiffs pursuant to the Court's Order dated May 29, 2025, directing the parties to inform the Court by today as to a briefing schedule for Plaintiff States' motion seeking a preliminary injunction. *See* ECF No. 15. The parties have conferred, but without agreement as to a schedule, and thus respectfully submit for the Court's consideration the parties' competing proposals:

Plaintiffs' proposal, consistent with Local Civil Rule 6.1, is:

- Defendants shall file their opposition by June 11, 2025; and
- Plaintiffs shall file their reply by June 18, 2025.

Defendants' proposal is:

- Defendants shall file their opposition by June 27, 2025; and
- Plaintiffs shall file their reply by July 11, 2025.

Plaintiffs have strong concerns for the institutions of higher education who are experiencing harms from the challenged conduct. Accordingly, they have a strong interest in proceeding swiftly on the preliminary injunction motion and in preventing further injury (including termination of breakthrough research, loss of staff, and loss of data integrity) resulting from defendants' conduct. Plaintiffs would be amenable to defendants' proposed schedule upon an agreement to further extend the government's voluntary stay of the Indirect Cost Directive through that schedule and a hearing on Plaintiffs' motion. *See Ass'n of Am. Universities v. Nat'l Sci. Found.*, No. 25-cv-11231 (D. Mass.), ECF No. 50 (temporary pause on Indirect Cost Directive).

The Government requests additional time to file its opposition to the plaintiffs' motion for a preliminary injunction in order to confer with attorneys for the Department of Justice who are litigating overlapping issues in a related case filed in the District of Massachusetts, *Association of American Universities et al. v. National Science Foundation et al.*, 25 Civ. 11231 (D. Mass.) ("*AAU*"). More specifically, the plaintiffs in *AAU* are challenging one of the same National Science Foundation ("NSF") policies that is at issue in the instant lawsuit: NSF's recent policy providing that NSF would reduce its reimbursement of indirect research costs to 15%. *See id.*, ECF No. 1-3, at 2. The parties in *AAU* have already briefed many of the same issues, and a hearing on the plaintiffs' motion for a preliminary injunction in *AAU* is scheduled for June 13, 2025. In light of the overlapping issues between this case and *AAU*, the Government requests two additional weeks to coordinate its response to the instant motion for a preliminary injunction. More generally, it would be beneficial for the parties to complete their briefing following the June 13 hearing on the *AAU* plaintiffs' motion for a preliminary injunction, because the result of such hearing could impact the parties' arguments, and the scope of relief sought by the plaintiffs, in this matter. Separately, the Government requests additional time because the Assistant United States Attorneys ("AUSAs") who are assigned to this case have personal and professional conflicts with the schedule proposed by the plaintiffs. Specifically, one AUSA will be traveling out of the country for the entirety of next week (*i.e.*, when the Government's opposition brief would be due under the plaintiffs' proposed briefing schedule), and the other AUSA has an upcoming deadline to file post-trial briefing in connection with a recent jury trial that took place in the Southern District of New York.


We thank the Court for its consideration of this submission.

Respectfully,

/s/ Colleen K. Faherty
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Defendants' opposition to the motion for a preliminary injunction is due by June 16, 2025. Plaintiffs' reply is due by June 23, 2025. By 12:00 p.m. on June 14, 2025, the parties shall file a joint letter to the Court setting forth (1) a status update on the related District of Massachusetts case, (2) whether Plaintiffs continue to seek the same relief in this matter following the June 13, 2025 hearing in the District of Massachusetts, (3) the status of Defendants' stay on implementation of the Indirect Cost Directive, and (4) whether any extension of the briefing schedule in this case is requested.

SO ORDERED.
Date: June 3, 2025
New York, New York



JOHN P. CRONAN
United States District Judge